IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. Civil Second Appeal No.456 Of 2003.

Ramdas & Others Vs. Govind Prasad & Another

Date Of Order ::: 21.11.2006.

Hon'ble Mr. Narendra Kumar Jain J.

Mr. Rajveer Sharma, Counsel for defendant-appellants
Mr. S.P. Sharma, Counsel for plaintiff-respondents

By the Court :

Heard learned counsel for both the parties.

Learned counsel for the plaintiff-respondents submits that in pursuance of the execution of the decree of the Courts below, the plaintiff-respondent has already got possession of the disputed property on 10.07.2003, therefore, this appeal has become infructuous.

Learned counsel for the defendant-appellants submits that even if the decree has been executed and possession has been given the appeal does not become

infructuous, but he will not press the appeal on merits provided the respondent does not execute the remaining decree in respect of the compensation awarded by the First Appellate Court at the rate of Rs.300/- per month with effect from 01.03.1988 till the date of handing over the possession of the property in dispute.

Learned counsel for the plaintiff-respondents fairly and frankly conceded and contended that he will not execute the decree in respect of the compensation/mesne profit granted by the First Appellate Court.

Consequently, the second appeal is dismissed as not pressed with a direction that the decree awarded by the First Appellate Court in respect of compensation/mesne profit at the rate of Rs.300/- per month with effect from 01.03.1988 till the date of handing over the possession of the disputed property will not be executed by the respondents.

The second appeal is disposed of with the directions as mentioned above.

(Narendra Kumar Jain) J.